In the Supreme Court of the United States

OCTOBER TERM, 1972

No. 72-387

ROBERT SCHWARTZ, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

After a jury-waived trial in the United States District Court for the Eastern District of New York, petitioner was convicted of having conspired to violate 15 U.S.C. 78h(c), which prohibits the unlawful hypothecation of securities by a broker or dealer who "transacts a business" through a national exchange. He was sentenced to pay a fine of $2500. The court of appeals affirmed (Pet. App. 1a-23a).

Petitioner's various contentions, which relate to the sufficiency of the evidence underlying the indictment, delays in indictment and trial, construction of the hypothecation statute, and regulations, admissibility of certain business records, and sufficiency of the evidence, are fully answered in the thorough opinion below, on which we rely.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
Solicitor General.

OCTOBER 1972.

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